**Mr. Joseph Petta** *(Adur):* They say Arbuthnot failed Travancore National Bank failed But none of the banks that have started kuries have failed. All these facts are before the Government. I leave it to the Government to do as they like.

*Clause 3 put and carried*

**Mr. A. V. Moothedan** *(Chalakkudi):* This is the third request that I am going to make. We are going to penalise those who start kuries. Without forseeing what is going to happen in the near future, there need not be any penal position. There is the Revenue Recovery Act. We can recover the amount by that Act and not by any other method. Even if clause 4 or 5 is omitted there will be nothing at all. The Government will have all the powers. As it is there is the penal position. Government may consider that.

*Clause 4 put and carried*

*Clause 5 put and carried*

*Clause 1 Preamble and Title put and carried*

**Mr. P. V. Raphael** *(Comptroller of Finance and Accounts):* I request that the Bill be taken up and finally passed to-morrow.

**Mr. M. Sivarama Menon** *(Advocate-General):* I second it

*Motion put and carried*

## The Cochin Employers' Liability Bill

**Mr. C. J. Mathew** *(Joint Secretary to Government):* Sir, I rise to move that the Cochin Employers' Liability Bill be read in Council.

**Mr. M. Sivarama Menon** *(Advocate-General):* I second it.

**Mr. C. J. Mathew** *(Joint Secretary to Government):* This Bill is a close adaption of the Employers' Liability Act which is now in force in British India. The object of this is to preclude the employer from all suits or damages in respect of injuries sustained by workmen, thereby rendering it possible for the employers dependent to get adequate compensation. The employer usually takes to defence against the payment of compensation. One is the defence of common employment by which the employer is not normally liable to pay damages to a workman for an injury resulting from another workman. The second is the defence of assumed risk by which an employee is presumed to have accepted a risk, if it is such that he ought to have known it to be part of the risk of the occupation. These common defences are proposed to be abrogated by the present legislation. Moreover it is necessary that the labour legislation in our State should as far as possible conform to that in British India. I request that the House will be pleased to vote for the Bill.

*Motion was put and carried*

**Secretary to the Council:** The title of the Bill is "The Cochin Employers' Liability Bill."

**Mr. C. J. Mathew** *(Joint Secretary to Government):* Sir I request that Standing Order 32 be suspended.

**Mr. President:** Yes suspended.

**Mr. C. J. Mathew** *(Joint Secretary to Government):* I move that the Bill be taken into consideration.

**Mr. M. Sivarama Menon** *(Advocate-General):* I second it.

*Clauses 2 to 5 put and carried*

*Clause 1, and Title and Preamble put and carried*

**Mr. C. J. Mathew** *(Joint Secretary to Government):* I request that the Cochin Employers' Liability Bill be taken up and finally passed tomorrow.

**Mr. M. Sivarama Menon** *(Advocate-General):* I second it.

*Motion put and carried*

## The Cochin Local Authorities Entertainment Tax Act (Amendment) Bill

**Mr. C. J. Mathew** *(Joint Secretary to Government):* I move that the Cochin Local Authorities Entertainment Tax Act (Amendment) Bill be read in Council. In making this motion I shall briefly explain the purpose of the Bill. Sub-section 1 of section 3 of Local Authorities Entertainments Tax Act provides that entertainment tax shall not be leviable on payments for any entertainment which do exceed three annas. Government consider that in these days of inflation there is no justification whatever, for allowing this exemption from taxation from local areas. The Bill aims at taking it away so that the local authorities will be enabled as an anti-inflationery measure levy a tax on entertainment. The sub-division 2 of section 3 which

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provides for this exemption is proposed to be deleted according to the first portion of the Bill. It maybe noted in this connection that the Madras Entertainment Tax Act does not contain any such provision. The second portion of the Bill which is consequential upon the first merely specifies the maximum rates of the tax. The rates provided here are the same as in the Madras Acts I move that the Bill may be passed.

*Motion put and carried*

**Secretary to the Council:** The title of the Bill is "The Cochin Local Authorities Entertainments Tax Act (Amendment) Bill"

**Mr. C. J. Mathew** *(Joint Secretary to Government):* I request that the S. O. 32 may be suspended.

**Mr. President:** Yes.

**Mr. C. J. Mathew** *(Joint Secretary to Govenrment):* I move that the Bill be taken into consideration.

**Mr. M. Sivarama Menon** *(Advocate-General):* I second it.

*Motion put and carried*

*Clause 2 put and carried*

*Clause 1, "Title and reamble" put and carried*

**Mr. C. J. Mathew** *(Joint Secretary to Government):* I move that the Cochin Local Authorities Entertainments Tax Act (Amendment) Bill be taken up and finally passed tomorrow.

**Mr. M. Sivarama Menon** *(Advocate-General):* I second it.

*Motion put and carried*

## The Workmen's Compensation Act (Amendment) Bill

**Mr. M. Sivarama Menon** *(Advocate-General):* I beg to move that the Workmen's Compensation Act (Amendment) Bill be read in Council.

**Mr. B. V. K. Menon** *(Joint Secretary to Government):* I second it.

**Mr. M. Sivarama Menon** *(Advocate-General):* The Cochin Workmen's Compensation Act is based upon the Indian Act. Subsequent to the passing of our Act certain amendments have been introduced in British India, and the purpose of the amending Bill is to bring it into line with the British Indian Act. The second clause in the Bill relates to the definition of the term dependent. It is intended to enlarge the scope of that word by including minor children and unmarried legitimate daughters of the deceased within the scope of the definition. Clause 4 is only intended to effect a verbal modification. Clause 5 is only intended to correct a mistake. Clause 6 relates to the notice and claim of compensation to the employee. The period now fixed in the law is a period of six months. In British India the period is one year. Clause 7 is merely verbal. Clause 10 relates to the issue of the Medical Certificate. Under the present Act there can be only one Commissioner. This is not sufficient. We must have the power of appointing more commissioners than one whenever necessary. I believe this is a non-controversial bill. I hope the House will gladly approve of these small amendments.

**Secretary to the Council:** The title of the Bill is "The Workmen's Compensation Act (Amendment) Bill".

**Mr. M. Sivarama Menon** *(Advocate-General):* I request that the President may be pleased to suspend S. O. 32.

**Mr. President:** Yes.

**Mr. M. Sivarama Menon** *(Advocate-General):* I beg to move that the Workmen's Compensation Act (1) Amendment a Bill be taken up for consideration.

**Mr. B. V. K. Menon** *(Joint Secretary to Government):* I second it.

*Clauses 2 to 18 put and carried*

*Clause 1 Title and Preamble put and carried*

**Mr. M. Sivarama Menon** *(Advocate-General):* I beg to move that the Workmen's Compensation Act (Amendment) Bill be taken up and finally passed to-morrow.

*Motion put and carried*

**Mr. President:** I do not know whether the Hon'ble Member for Vadakkancheri wishes to take up his motion now.

**Mr. P. Kumaran Ezhuthassan** *(Vadakkancheri):* I won't be able to finish up before 5. Sir, there are barely 12 minutes and that is not enough.

*The House rose for the day at 4-48 p.m.*

N. S RADHAKRISHNA SARMA
*Secretary to the Council*

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(*b*) "employer" includes any body of persons whether incorporated or not, and any managing agent of an employer and the legal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered, into a contract of service or apprenticeship, means such other person while the workman is working for him.

3. *Defence of common employment barred in certain cases.*—Where personal injury is caused to a workman—

(*a*) by reason of the omission of the employer to maintain in good and safe condition of any way, works, machinery of plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition; or

(*b*) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or

(*c*) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or

(*d*) by reason of any act or omission of any person in the service of the employer done or made in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved) or in obedience to particular instructions given by any person to whom the employer has delegated authority in that behalf or in the normal performance of his duties;

A suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of the employer.

4. *Risk not to be deemed to have been assumed without full knowledge.*—In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

5. *Saving.*—Nothing in this Act shall affect the validity of any decree or order of a Civil Court passed before the commencement of this Act in any such suit for damages.

*Statement of Objects and Reasons*

The Bill aims to abrogate two defences which it is open to an employer to take under the Common Law in contesting a suit for damages for injuries sustained by a workman. They are—

(1) the doctrine of common employment, by which the employer is not normally liable to pay damages to a workman for an injury resulting from the default of another workman; and

(2) the doctrine of assumed risk by which an employee is presumed to have accepted a risk if it is such that he ought to have known it to be part of the risks of his occupation. The Bill is a close adaptation of the enactment passed in British India on the recommendation of the Royal Commission on labour.

## APPENDIX V

## The Cochin Local Authorities Entertainments Tax Act (Amendment) Bill

WHEREAS it is necessary to amend the Cochin Local Authorities Entertainments Tax Act, VIII of 1114; It is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Local Authorities Entertainments Tax (Amendment) Act of 112 and shall come into force at once.

2. *Amendment of section 3.*—In section 3 of the Cochin Local Authorities Entertainments Tax Act, VIII of 1114.—

(*i*) Sub-section (2) shall be deleted; and

(*ii*) For item (1) under sub-section (3) the following shall be substituted, namely.—

| | |
|---|---|
| "(*i*) is not more than two annas | Three pies. |
| (*i-a*) is more than two annas but is less than six annas. | Six pies" |

*Statements of Objects and Reasons*

The Local Authorities Entertainments Tax Act provides that entertainments tax shall not be leviable where the payments for admission is not more than 3 annas. It is deemed necessary as an anti-inflationary measure that entertainment tax should be levied in such cases also. This is in conformity with the provisions contained in the Madras Entertainments Tax Act.

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